

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-31, all of which have been rejected. Claims 1, 11, 21-22, 25, and 28 have been amended to clarify aspects of the inventions.

Claims 1-7, 10-17, 20-27, and 30-31 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 2002/0104099 ("Novak"). Claims 8-9, 18-19, and 28-29 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Novak in view of USP 7,284,032 ("Weber"). The Applicant respectfully traverses these rejections for at least the following reasons:

#### **REJECTION UNDER 35 U.S.C. § 102**

##### **I. Novak Does Not Anticipate Claims 1-7, 10-17, 20-27, and 30-31**

The Applicant first turns to the rejection of claims 1-7, 10-17, 20-27, and 30-31 under 35 U.S.C. 102(e) as being anticipated by Novak. Without conceding that Novak qualifies as prior art under 35 U.S.C. 102(e), the Applicant respectfully traverses this rejection as follows.

With regard to the anticipation rejections under 102, MPEP 2131 states that "[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See *id.* (internal citation omitted).

**A. Rejection of Independent Claim 1 under 35 U.S.C. § 102(e)**

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant submits that Novak does not disclose or suggest at least the limitation of "modifying existing media content with additional media content to produce a media program," as recited by the Applicant in independent claim 1.

The Office Action states the following:

In reference to Claim 1, Novak teaches a method for producing and delivering media content (as shown in Figs. 4 and 11; with further reference to the descriptions of Paragraphs [0056-0060; 0077-0086]), the method comprising:

establishing a personal television channel at a first geographic location ("Joe's TV Channel" as shown in Figs. 6-9 created by the method of Figs. 4 and 11; With further reference to the operations of Upload Source 122, as described in Paragraphs [0039,0040,0041,0046,0055,0056, 0068,0070,0074, and 0080])

modifying media content to produce a media program (Fields 706 of Fig. 7 allow an individual to enter media object information or preferences, such as identifiers for date, time slot, media object identifier (10), media object description, or file type, as described in Paragraph [0063-0067]. Once the individual has entered the media object information or preferences, the media objects are then compiled into the media program of Display 710, as described in Paragraph [0067]);

editing, at said first location, metadata associated with said media content (Fields 706 are customized by the individual, as described in Paragraphs [0063-0067]. In addition, the interface of Fig. 6 allows the uploading individual to create and edit a program schedule for Synthetic Channel);

associating the produced media program and said edited metadata with the established personal television channel (EPG 802 of Fig. 8 and EPG 152 of Fig. 9, which show "Joe's TV Channel" in association with the broadcast times and Conventional Television Broadcast Channels of EPG 802 (as described in Paragraphs [0071,0072])).

See the Office Action at pages 5-6. The Examiner has equated the Applicant's "media program" with item 710 in FIG. 7 of Novak. Initially, the Applicant points out that item 710 is a display of the sequence of programming, organized by the media object ID. Obviously, the display 710 is not a media program. Even if we assume the display 710 is a "media program", the Examiner's argument is still deficient. Namely, the Examiner has equated Applicant's modifying of the media content to Novak's completion of fields 706 (entering media object information or preferences). The Applicant respectfully disagrees and points out that entering the media object information and preferences does not include any modification to the related media content. In other words, there really isn't any modifying of existing media content by Novak's user interface 702. Novak's content stays the same and related information and preferences are added for purposes of organizing the synthetic channel.

Therefore, the Applicant maintains that Novak does not disclose or suggest at least the limitation of "modifying existing media content with additional media content to produce a media program," as recited by the Applicant in independent claim 1.

Furthermore with regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant submits that Novak does not disclose or suggest at least the limitation of "associating said produced media program and said edited metadata with said established personal television channel and communicating said produced media program along with said edited metadata to another geographic location," as recited by the Applicant in independent claim 1. Referring to FIG. 8 of Novak, the Applicant points out that EPG 802 does not include any metadata information associated with the

synthetic channel 804. Novak discloses that only the media programs (objects), and not any associated metadata, are identified in the program listing for the synthetic channel 804. See Novak at paragraph 0071. Therefore, the Applicant maintains that Novak does not disclose or suggest at least the limitation of "associating said produced media program and said edited metadata with said established personal television channel for purposes of communicating said produced media program along with said edited metadata to another geographic location," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Novak and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-7, 10, 12-17, 20, 22-27, and 30-31**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 102(e) as being anticipated by Novak has been overcome and request that the rejection be withdrawn. Additionally, claims 2-7, 10, 12-17, 20, 22-27, and 30-31 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-7, 10, 12-17, 20, 22-27, and 30-31.

**II. The Rejection of Claims 8-9, 18-19, and 28-29**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 102(e) as being anticipated by Novak has been overcome and request that the rejection be withdrawn. Additionally, since the additional cited reference (Weber) does not overcome the deficiencies of Novak, claims 8-9, 18-19, and 28-29 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 8-9, 18-19, and 28-29.

### III. Conclusion

In general, the Office Action makes various statements regarding claims 1-31 and the cited references that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. The Applicant expressly reserves the right, however, to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a future rejection).

The Applicant respectfully requests reconsideration of the objections and rejections for at least the reasons discussed above. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the undersigned attorney.

The Commissioner is authorized to charge any necessary fees, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

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